



General Assembly

January Session, 2001

Raised Bill No. 1240

LCO No. 4083

Referred to Committee on Energy and Technology

Introduced by:
(ET)

***AN ACT TO PERMIT THE BRISTOL RESOURCE RECOVERY
FACILITY OPERATING COMMITTEE TO FINANCE PROJECTS AND
REFUND PREVIOUSLY ISSUED BONDS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1 of special act 92-25 is amended to read as
2 follows:

3 As used in [this act] special act 92-25:

4 (1) "Bonds" means bonds, notes or other obligations, including, but
5 not limited to, refunding bonds.

6 (2) "Inter-community agreement" means the agreement dated as of
7 August 1, 1985, by and among the towns and cities of Bristol and New
8 Britain and the towns of Berlin, Burlington, Plainville, Plymouth,
9 Southington and Washington, as such agreement has been amended to
10 include the towns of Wolcott, Warren, Hartland, Branford, Seymour
11 and Prospect and as such agreement may be further amended from
12 time to time.

13 (3) "Original bonds" means the seventy-three million five hundred

14 twenty thousand dollars face amount of Connecticut Development
15 Authority Solid Waste and Electric Revenue Bonds, Ogden Martin
16 Systems of Bristol, Inc. Project -1985 Series, issued September 18, 1985.

17 (4) "Original project agreements" means all agreements or contracts
18 and amendments thereto entered into with respect to the issuance of
19 the original bonds and the security therefor, including, but not limited
20 to, the loan agreement, security agreement, service agreement, project
21 agreement, inter-community agreement, reimbursement agreement
22 and guarantee.

23 (5) "Project" means the mass burn solid waste disposal, electric
24 power generating and resource recovery facility in the city of Bristol,
25 financed by the original bonds.

26 (6) "Refunding bonds" means bonds issued pursuant to this act to
27 refinance the project and to finance related cost of such refinancing.

28 (7) "Committee" means the resource recovery operating committee
29 created pursuant to [section 22a-221(c)] subsection (c) of section 22a-
30 221 of the general statutes and the inter-community agreement.

31 (8) "Landfill project" means activities required to provide landfill
32 services to the municipalities of the committee that include, but are not
33 limited to, planning, acquiring, constructing, closing or expanding the
34 city of Bristol landfill; providing access to a new landfill in any
35 location; the payment of engineering and consulting fees; site
36 preparation; wetlands replication; storm water management; landfill
37 capping; monitoring, acquisition or transfer of real property or
38 interests therein; providing gas control mechanisms, equipment,
39 landscaping and all necessary and appropriate appurtenances thereto
40 or the financing of costs, including, but not limited to, legal, printing,
41 administrative and related costs or the committee's share of such costs
42 pursuant to an agreement to provide, develop or operate a landfill and
43 share costs with other entities in connection with the landfill project.

44 Sec. 2. Section 2 of special act 92-25 is amended to read as follows:

45 (a) The committee is authorized to issue (1) refunding bonds to
 46 refinance all or any portion of the outstanding original bonds,
 47 [including costs] (2) bonds to finance a project, and (3) refunding
 48 bonds. Such bonds may include the cost of issuance, debt service
 49 reserve, interest on the [refunding] bonds for a period not to exceed
 50 five years, credit enhancement, call premium, and notice of
 51 redemption of the original or prior bonds, and in connection therewith
 52 to enter into [agreements for the purpose of moderating interest rate
 53 fluctuations, including investment contracts, funding agreements,]
 54 forward purchase agreements and agreements to issue bonds at a
 55 future date.

56 (b) In connection with or incidental to the carrying of bonds or in
 57 connection with or incidental to the issuance of bonds, the committee
 58 may enter into such contracts as it may determine to be necessary or
 59 appropriate to place the obligations of the committee, as represented
 60 by the bonds, in whole or in part, on such interest rate or cash flow
 61 basis as the committee may determine, including, but not limited to,
 62 interest rate swap agreements, insurance agreements, forward
 63 payment conversion [and forward purchase agreements, agreements
 64 to issue bonds at a future date, future] agreements, futures contracts,
 65 contracts providing for payments based on levels of or changes in
 66 interest rates, or market indices, contracts to [exchange cash flows or a
 67 series of payments, contracts] manage interest rate risk, including
 68 without limitation, [credit facilities authorized pursuant to section 7-
 69 370b of the general statutes, remarketing, options, puts or calls to
 70 hedge payment, rate, spread or similar exposure] interest rate floors or
 71 caps, options, puts, calls and similar arrangements. Such contracts
 72 shall contain such payment, security, default, remedy and other terms
 73 and conditions as the committee may deem appropriate and shall be
 74 entered into with such party or parties as the committee may select,
 75 after giving due consideration, where applicable, to the
 76 creditworthiness of the counter party or counter parties, including any

77 rating by a nationally recognized rating agency, the impact on any
78 rating of any outstanding bonds or any other criteria as the committee
79 may deem appropriate, provided the long-term obligations of the
80 counter party is rated the same or higher than the underlying rating of
81 the committee on the applicable bonds by at least one nationally
82 recognized rating agency. The committee may pledge the collateral
83 that secures the applicable bonds or notes to the committee's payment
84 obligations under any agreement entered into pursuant to this section.
85 As part of a contract between the committee and the parties to any
86 agreement entered into pursuant to this section appropriation of all
87 amounts necessary for the punctual payment of the obligations of the
88 committee under such agreement is hereby made and the committee
89 shall pay such amounts as the same become due.

90 (c) The committee may obtain from a commercial bank or an
91 insurance company authorized to do business within or without this
92 state a letter of credit, line of credit or other liquidity facility or credit
93 facility for the purpose of providing funds for the payment of bonds
94 required by the holder thereof to be redeemed or repurchased prior to
95 maturity or for providing additional security for such bonds. In
96 connection with such payment, the committee may enter into
97 reimbursement agreements, remarketing agreements, standby bond
98 purchase agreements or any other necessary or appropriate
99 agreements. The committee may pledge the collateral that secures the
100 applicable bonds for the committee's payment obligations under any
101 agreement entered into pursuant to this section. As part of the contract
102 between the committee and the parties to any agreement entered into
103 pursuant to this section, appropriation of all amounts necessary for the
104 punctual payment of the obligations of the committee under such
105 agreement is hereby made and the committee shall pay such amounts
106 as the same become due.

107 (d) Any pledge of collateral made pursuant to this section shall be in
108 effect until the obligation for which the pledge is made has been fully
109 paid or terminated, or provision for which has been made for such

110 payment. Any such pledge shall be valid and binding from the time
111 when the pledge is made; moneys or rents so pledged and thereafter
112 received by the committee shall immediately be subject to the lien of
113 such pledge without any physical delivery thereof or further act; and
114 the lien of any such pledge shall be valid and binding as against
115 parties having claims of any kind in tort, contract, or otherwise, against
116 the committee, irrespective of whether such parties have notice of such
117 lien. Neither the resolution, trust indenture pledge or security
118 agreement nor any other instrument by which a pledge is created need
119 be recorded.

120 Sec. 3. Section 3 of special act 92-25, as amended by section 9 of
121 special act 93-40, is amended to read as follows:

122 The principal of and interest on [refunding] bonds issued by the
123 committee, and any agreement as set forth in section 2 of special act 92-
124 25, as amended by this act, may be secured by a pledge of any
125 revenues and receipts of the committee derived from the project and
126 may be additionally secured by the assignment of a lease of the project
127 or by an assignment of the revenues and receipts derived by the
128 committee from any such lease. The payment of principal and interest
129 on such [refunding] bonds may be additionally secured by a pledge of
130 any other property, revenues, moneys or funds available to the
131 committee for such purpose. The resolution authorizing the issuance of
132 [refunding] bonds and any such lease may contain or authorize
133 agreements and provisions respecting (1) the establishment of reserves
134 to secure such [refunding] bonds, (2) the maintenance and insurance of
135 the project covered thereby, (3) the fixing and collection of rents for
136 any portion thereof leased by the committee to others, (4) the creation
137 and maintenance of special funds from such revenues, (5) the rights
138 and remedies available in the event of default, (6) provision for a trust
139 agreement by and between the committee and a corporate trustee or
140 trustees which may be any trust company or bank having the powers
141 of a trust company within or without the state, which agreement may
142 provide for the pledge or assigning of any assets or income from assets

143 to which or in which the committee has rights or interest, the vesting
144 in such trustee or trustees of such property, rights, powers and duties
145 in trust as the committee may determine, which may include any or all
146 of the rights, powers and duties of any trustee appointed by the
147 holders of any [refunding] bonds and limiting or abrogating the right
148 of the holders of any [refunding] bonds to appoint a trustee or limiting
149 rights, powers and duties of such trustee, and may further provide for
150 such other rights and remedies exercisable by the trustee as may be
151 proper for the protection of the holders of any [refunding] bonds and
152 not otherwise in violation of law. Such trust agreement may provide
153 for the restriction of rights of any individual holder of [refunding]
154 bonds of the committee and may contain any provisions which are
155 reasonable to delineate further the respective rights, due safeguards,
156 responsibilities and liabilities of the committee, persons and collective
157 holders of [refunding] bonds of the committee and the trustee, (7)
158 covenants to do or refrain from doing acts and things as may be
159 necessary or convenient or desirable in order to better secure
160 [refunding] bonds of the committee, or which, in the discretion of the
161 committee, will tend to make any [refunding] bonds to be issued more
162 marketable, notwithstanding that such covenants or things may not be
163 enumerated in this act, [;] and (8) any other matters of like or different
164 character, which in any way affect the security or protection of the
165 [refunding] bonds, all as the committee shall deem advisable and not
166 in conflict with the provisions of this act. Each pledge, agreement or
167 assignment of lease made for the benefit or security of any [refunding]
168 bonds of the committee shall be in effect until the principal of and
169 interest on the [refunding] bonds for the benefit of which the same
170 were made have been fully paid, or until provision has been made for
171 the payment in the manner provided in the resolution or resolutions
172 authorizing the issuance. Any pledge made in respect of such
173 [refunding] bonds shall be valid and binding from the time when the
174 pledge is made; moneys or rents so pledged and thereafter received by
175 the committee shall immediately be subject to the lien of such pledge
176 without any physical delivery thereof or further act; and the lien of any

177 such pledge shall be valid and binding as against parties having claims
178 of any kind in tort, contract or otherwise against the committee,
179 irrespective of whether such parties have notice thereof. Neither the
180 resolution, trust indenture nor any other instrument by which a pledge
181 is created need be recorded. The committee may, without further
182 approval of the legislative bodies of the municipalities which are
183 parties to the original project agreements, assign, amend, reaffirm, or
184 terminate any or all of such original project agreements to secure the
185 [refunding] bonds and exercise the powers set forth in this act by vote
186 taken in accordance with the inter-community agreement. The
187 resolution authorizing the issuance of such [refunding] bonds may
188 provide for the enforcement of any such pledge or security in any
189 lawful manner.

190 Sec. 4. Section 4 of special act 92-25, as amended by section 12 of
191 special act 93-40, is amended to read as follows:

192 The exercise of the powers granted by this act constitutes the
193 performance of an essential governmental function and the committee
194 shall not be required to pay any taxes or assessments upon or in
195 respect of [the] any project, or any property or moneys of the
196 committee, levied by any municipality or political subdivision or
197 special district having taxing powers of the state, nor shall the
198 committee be required to pay state taxes of any kind, and the
199 committee, its projects, property and money and any [refunding]
200 bonds issued under the provisions of this act, their transfer and the
201 income therefrom, including revenues derived from the sale thereof,
202 shall at all times be free from taxation of every kind by the state except
203 for estate or succession taxes and by the municipalities and all other
204 political subdivisions or special districts having taxing powers of the
205 state, provided nothing herein shall prevent the committee from
206 entering into agreements to make payments in lieu of taxes with
207 respect to property acquired by it or by any person leasing a project
208 from the committee or operating or managing a project on behalf of the
209 committee and neither the committee nor its projects, properties,

210 money or [refunding] bonds shall be obligated, liable or subject to lien
211 of any kind for enforcement, collection or payment thereof. If and to
212 the extent the proceedings under which the [refunding] bonds
213 authorized to be issued under the provisions of this act so provide, the
214 committee may agree to cooperate with the lessee or operator of the
215 project in connection with any administrative or judicial proceedings
216 for determining the validity or amount of such payment and may
217 agree to appoint or designate and reserve the right in and for such
218 lessees or operators to take all action which the committee may
219 lawfully take in respect of such payments and all matters relating
220 thereto, and such agreement may provide such lessee or operator shall
221 bear and pay costs and expenses of the committee thereby incurred at
222 the request of such lessee or operator or by reason of any such action
223 taken by such lessee or operator in behalf of the committee. Any lessee
224 or operator of a project which has paid the amounts in lieu of taxes
225 permitted by this section to be paid shall not be required to pay any
226 such taxes in which a payment in lieu thereof has been made to the
227 state or to any such municipality or other political subdivision or
228 special district having taxing powers, any other statutes to the contrary
229 notwithstanding.

230 Sec. 5. Section 5 of special act 92-25, as amended by section 10 of
231 special act 93-40, is amended to read as follows:

232 (a) The [refunding] bonds may be issued in one or more series in
233 such aggregate principal amounts and bearing rate or rates of interest,
234 be executed by manual or facsimile signatures, be issued as term bonds
235 with mandatory deposit of sinking fund payments, at par, a discount
236 or an original issue discount, with or without redemption provisions,
237 with principal and interest payments at such times and in such
238 amounts, be sold at public sale or by negotiation at such price or prices
239 and at such time or times, and contain and be issued in accordance
240 with such other terms, details and particulars as determined by the
241 committee, or delegated by the committee to such committee members
242 as it shall determine.

243 (b) Any proceeds derived from the sale of the [refunding] bonds,
244 and revenues, receipts and income pledged to the [refunding] bonds,
245 or from the project, may be invested and reinvested in such
246 obligations, securities or other investments that are legal investments
247 for the state, and in such obligations, securities, and other investments,
248 including time deposits or certificates of deposit, as shall be provided
249 in the resolution or resolutions authorizing the issuance of the
250 [refunding] bonds.

251 (c) Whether or not the [refunding] bonds are of such form and
252 character as to be negotiable instruments under article eight of title 42a
253 of the general statutes, the [refunding] bonds shall be and are hereby
254 made negotiable instruments within the meaning of and for all the
255 purposes of article eight of said title 42a, subject only to the provisions
256 of the [refunding] bonds for registration.

257 (d) The committee may provide in any resolution authorizing the
258 issuance of [refunding] bonds for the time and manner of and
259 requisites for disbursements to be made with respect to such bonds.

260 (e) The committee is further authorized and empowered to issue
261 [refunding] bonds under this act the interest on which may be
262 includable in the gross income of the holder or holders thereof under
263 the Internal Revenue Code of 1986, or any subsequent corresponding
264 internal revenue code of the United States, as from time to time
265 amended.

266 Sec. 6. Section 6 of special act 92-25 is amended to read as follows:

267 [Refunding bonds] Bonds issued by the committee under the
268 provisions of this act are hereby made securities in which all public
269 officers and public bodies of the state and its political subdivisions, all
270 insurance companies, credit unions, building and loan associations,
271 investment companies, savings banks, banking associations, trust
272 companies, executors, administrators, trustees and other fiduciaries
273 and pension, profit-sharing and retirement funds may properly and

274 legally invest funds, including capital in their control or belonging to
275 them. Such [refunding] bonds are hereby made securities which may
276 properly and legally be deposited with and received by any state or
277 municipal officer or any agency or municipality of the state for any
278 purpose for which the deposit of bonds or obligations of the state is
279 now or may hereafter be authorized by law.

280 Sec. 7. Section 11 of special act 93-40 is amended to read as follows:

281 Bonds of the committee issued pursuant to special act 92-25, as
282 amended by this act, shall not be deemed to constitute a debt or
283 liability of the state or of any municipality thereof or a pledge of the
284 faith and credit of the state or of any such municipality, and shall not
285 constitute bonds or notes issued or guaranteed by the state within the
286 meaning of section 3-21 of the general statutes, but shall be payable
287 solely from the revenues and funds herein provided therefor. All such
288 bonds shall contain on the face thereof a statement to the effect that
289 neither the state of Connecticut nor any municipality thereof other
290 than the committee shall be obligated to pay the same or the interest
291 thereon and that neither the faith and credit nor the taxing power of
292 the state of Connecticut or of any such municipality is pledged to the
293 payment of the principal of or the interest on such [refunding] bonds.

294 Sec. 8. In the performance of its duties and purposes under the inter-
295 community agreement, the committee is granted the powers afforded
296 to municipal or regional resource recovery authorities under
297 subsection (a) of section 7-273bb of the general statutes in addition to
298 any other powers it may otherwise have under the general statutes or
299 any public or special act. It is the intention of this act that the
300 committee shall be granted all powers necessary to fulfill the purposes
301 of this act and to carry out its responsibilities and that the provisions of
302 this act are to be construed liberally.

303 Sec. 9. Sections 1 to 8, inclusive, of special act 93-40 are repealed.

Statement of Purpose:

To permit the Bristol Resource Recovery Facility Operating Committee to finance projects and refund previously issued bonds.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]